

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

PAUL D WRIGHT
Claimant

APPEAL NO. 12A-UI-02081-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SLYCORD CONSTRUCTION INC
Employer

OC: 01/08/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated February 20, 2012, reference 01, which denied unemployment insurance benefits. After due notice was issued, a telephone hearing was held on March 19, 2012. The claimant participated personally. The employer participated by Mr. Jeff Slycord, company owner.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Paul Wright was employed by Slycord Construction, Inc. from December 2008 until April 4, 2011, when he voluntarily left his employment without notice. Mr. Wright worked as a full-time cement finisher/laborer and was paid by the hour. His immediate supervisor was Jeff Slycord.

Mr. Wright left his employment on April 4, 2011, because of general dissatisfaction with his employment with Slycord Construction. The claimant believed that, at times, he was required to temporarily perform work that did not comply with OSHA regulations. The claimant was dissatisfied because he felt sufficient break times were not available to him and because he and other workers had engaged in drinking while returning from out-of-town work assignments.

Prior to leaving employment, Mr. Wright had not brought his dissatisfactions to the attention of the company owner. The claimant was free to decline to perform any duties that he felt violated OSHA restrictions. Employees were free to take break time when they felt it was necessary, although the employer did not specify certain times of the morning or afternoon for official breaks from work. Work continued to be available to Mr. Wright when he left employment. The employer was unaware that the claimant had job dissatisfactions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. See Iowa Code section 96.6-2. An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. See Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if the conditions persist in order to preserve eligibility for benefits. See Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991). Claimants are not required to give notice of intention to quit due to intolerable or detrimental working environments if the employer had or should have had reasonable knowledge of the condition. See Hy-Vee, Inc. v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005).

Inasmuch as the evidence in the record shows that Mr. Wright did not give the employer an opportunity to resolve his complaints to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated February 20, 2012, reference 01, is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw